Supreme Court, U.S.
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In the
SUPREME COURT OF THE
UNITED STATES

In re JOHN L. CORRIGAN

ON PETITION FOR A WRIT OF
MANDAMUS
TO THE UNITED STATES NINTH
CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF MANDAMUS

John L. Corrigan, Pro Se
31912 – 53rd Place South
Auburn, WA 98001
253.735.5025

QUESTIONS PRESENTED

1. Whether the 9th Circuit is engaged in a brutal conspiracy to deny pro se litigants due process through harassment, intimidation, extortion, and actions contrary to rules of court and common law.

2. Whether *federal* judges can be sued for declaratory judgment under the Federal Courts Improvement Act of 1996.

3. Whether the 9th Circuit COA Pre-Filing Review Order is the result of a 9th Circuit witch hunt and/or a further example of the abuse of pro se litigants by an out-of-control 9th Circuit.

LIST OF PARTIES

For the Petitioner:

John L. Corrigan
31912 – 53rd Place South
Auburn, WA 98001-3877
253.735.5025

For the Respondents:

Circuit Judges:

Honorable Mary Schroeder
Honorable Harry Pregerson
Honorable Edward Leavy

9th Circuit Court of Appeals
P.O. Box 193939
San Francisco, CA 94119-3939
415.355.8000

District Court Judge James L. Robart
U.S. District Court – Western District
Of Washington
U.S. Courthouse
700 Stewart Street
Seattle, WA 98101
206.370.8400

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OPINIONS BELOW

The Orders of the United States Court of Appeals for the Ninth Circuit, and the United States District Court for the Western District of Washington are in memorandum form.

The Order of the United States District Court for the Western District of Washington was entered on March 10, 2010. (App. 1).

The Order of the United States Court of Appeals for the Ninth Circuit was entered on March 10, 2010. (App. 3)

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. §1651(a):

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

The "due process clause" of the 5th Amendment to the U.S. Constitution.

> No person . . . nor be deprived of life, liberty, or property, without due process of law.

Federal Courts Improvements Act (FCIA) of 1996.

Injunctive relief shall not be granted in an action brought against –

> a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable.

STATEMENT OF FACTS

1. In 2002 Corrigan was custodially arrested in Adams County for failing to sign a traffic citation (civil offense) which lead to a misdemeanor citation for failing to sign the misdemeanor citation for not signing a traffic citation (criminal offense).

Corrigan went through two trials and was found guilty for both the traffic citation (civil) and the misdemeanor citation (criminal). He was sentenced to 30 days in jail (25 days suspended) and a fine of $1,000 ($525 suspended). Corrigan appealed his sentences in the state courts which affirmed the sentences. Later, Corrigan was arrested for failure to appear relating to a summons incident to the original cause.

Subsequent civil rights actions in the federal court lead to a number of actions in the U.S. District Courts which were dismissed and which lead to subsequent appeals in the 9th Circuit COA, and petitions for certiorari and/or writ of mandamus to the U.S. Supreme Court.

2. On 01/03/2010 Corrigan filed suit in the U.S. District Court for the Western District of Washington seeking declaratory judgment against 15 judges (6 district court and 9 appellate) of the 9th Circuit Court of Appeals (COA). This was a re-filing of a previous case that was dismissed for failure to properly serve the defendants. An immediate action of Judge Robart, who was assigned the case, sought an Order To Show Cause and after Corrigan responded, Judge Robart dismissed for the action for failure to state a claim on March 10, 2010.

3. On 12/22/2009 the U.S. Court of Appeals for the Ninth Circuit submitted an Order to show cause why Corrigan should not be subject to a pre-filing review order. Corrigan requested a stay of proceedings 01/03/2010 which was denied on 02/03/2010. Corrigan filed a motion for clarification of order. On 03/10/2010 the court denied Corrigan's motion for clarification and at the same time Ordered a Pre-Filing Review Order.

REASONS FOR GRANTING THE WRIT

WRIT DIRECTLY TO
U.S. SUPREME COURT

Corrigan alleges that that the 9th Circuit judges (both the district courts and the appellate court) are abusing their judicial power and are denying all pro se litigants a fair and impartial trial. See *Marshall v. Jerrico, Inc.*, 100 S.Ct. 1610, 1613 (1980) (The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases).

Petitioner also alleges that this extraordinary writ is necessary to:

- Properly apply appellate jurisdiction relating to abuse of clearly established rules and common law;

- There is no other adequate means to overcome the abuses of the trial court and the appellate court;
- The excessive abuse of discretion actions by 9th Circuit judges will show that the right to the writ is clear and indisputable;
- See generally *Mallard v. United States Dist. Court*, 490 U.S. 296, 309 (1989) (noting that "a 'clear abuse of discretion'" may justify issuance of the writ) (quoting *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 383 (1953));
- That Corrigan is prohibited from any appeal of his Pre-Filing Order in the 9th Circuit (App. 1) – and that the only appeal of this Order is to the U.S. Supreme Court – a very unique situation; and
- The 9th Circuit Court of Appeals has a pre-screening process that specifically targets pro se's and which unlawfully denies pro se litigants due process of law.

The writ is submitted to this Court because of serious questions about the integrity of the 9th Circuit and the brutality and dishonesty with which the 9th Circuit deals with pro se litigants.

I. WHETHER THE 9TH CIRCUIT IS ENGAGED IN A BRUTAL CONSPIRACY TO DENY PRO SE LITIGANTS DUE PROCESS THROUGH HARASSMENT, INTIMIDATION, EXTORTION, AND ACTIONS CONTRARY TO RULES OF COURT AND COMMON LAW

ARGUMENT

1. The "Devil" Made The 9th Circuit Do It

Circuit Judge Diarmuid F. O'Scannlain, United States Court of Appeals for the Ninth Circuit suggests that the Ninth Circuit might have made a "devil's bargain" to achieve some semblance of order in the crisis that is facing the courts.

> . . . I confess that we have made a devil's bargain to achieve some semblance of order. Specifically, we have made painful compromises to cope with the tens of thousands of appeals that clog our dockets each year. These uneasy truces were once troubling exceptions to an idealized version of appellate review. In this Article, I describe these compromises, identify the source of expanding caseloads and suggest a path for the future.

Lewis & Clark Law Review, [Vol. 13:2 2009], The Federal Courts and Expanding Caseloads, p. 474.

In another law review entry, pro se litigation was addressed where:

> The Author advocates the adoption of a set of initiatives guided by the goal of giving pro se litigants a genuine opportunity to voice their views to a responsive decision maker.

Id., The Growing Challenge of Pro Se Litigation, p. 439.

Also, in the 12-month period ending September 30, 2009, there were 28,879 pro se terminations of the 60,508 total cases terminated in the U.S. Court of Appeals. That is 48% of the cases terminated were initiated by pro se litigants. Of those pro se terminations, the 9th Circuit terminated 6,018 or 21% of all the Courts of Appeals. The 5th Circuit - their closest competitor (?) - *only* had 14%, or 2,000 less than the 9th. See U.S. Court of Appeals – Pro Se Appeals Commenced and Terminated - by Circuit - During the 12-Month Period Ending September 30, 2009, Table B-9, pp. 129-130.

Corrigan is not unsympathetic to the problems/crisis facing not only the 9th Circuit but the entire judiciary. However, that does not give the 9th Circuit or any other Circuit the right to brutally conspire to deny pro se

litigants due process through harassment, intimidation, extortion, and actions contrary to rules of court and common law.

2. Pro Se Appellate Abuses

Consider how the 9th Circuit "disposes" of appeals and how this process targets pro se actions for special abuse by the 9th Circuit:

> The remaining six thousand appeals are then funneled to a group of staff attorneys, who assign each case a "weight" from one to ten based on the staff attorney's judgment about the difficulty level of the case. About two thousand of these six thousand appeals receive a weight of "one," which means that the staff attorney thinks that the law involved is plain and the proper resolution of the case is clear. These cases are then presented to a three judge screening panel, which either agrees with the staff attorney's recommendation, modifies the proposed disposition, or kicks the case over to the regular argument calendar. In the first five months of this year, the Ninth Circuit panel has agreed with the staff attorney's recommendation ninety-five percent of the time. Based upon my personal experience, each of these "screened out" cases receives about four to nine minutes of consideration

> by a Ninth Circuit panel before filing. ***I am not entirely confident that such cursory judicial review is error-free.*** [Citations omitted][Emphasis added]

Id., p. 476.

Now consider Corrigan's fourteen appeals from 1995 to 2009. The first 8 were submitted to the screening panel and were dismissed within days of that submission. (App. 12 & App. 13) Three (combined to two) are pending but could very well go to the screening panel. Of the three remaining: 1 – habeas corpus and not considered; 1 – was returned to district court as not a final determination; and 1 – may have been presented to the screening panel but certain docket entries are missing. ***Most of Corrigan's pro se appeals targeted him as a pro se for the screening panel and this abusive appeal process is designed to violate pro se rights to a fair and impartial trial.***

This screening process is tailor made for abuses. It is also tailor made to herd pro se complaints to the slaughterhouse. Finally, it is tailor made to allow district court judges to push pro se litigants around with impunity – because the 9th Circuit COA is not making an effort to ensure fairness or impartiality – thereby making it less likely that district

courts would get reversed – further exacerbating the problem.

3. Cases On Point

Case #1 [1] – Judge Van Sickle.

Judge Van Sickle made a reasonable determination and dismissed this case without prejudice. However, he entertained a completely baseless and frivolous Rule 11 motion thereby showing his bias and prejudice.

On appeal the Rule 11 motion was reversed but it created a completely unnecessary appeal cause mostly by Judge Van Sickle's bias although the defendants' should be sanctioned for their bad faith motion.

Case #2 – Judge Martinez.

There was no basis at this early stage to dismiss the complaint. It was based on federal law and the appellate decision was ridiculous – they claimed that it was okay because the state law allowed it – even though it was contrary to federal statute.

Case #3 – Judge Pechman.

Judge Pechman is truly a dishonest judge. The way Judge Pechman handled the issues of: 1) unknown defendants; 2) abuse of

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[1] See APP. 11 for a list of the cases.

process claims; 3) malicious prosecution; 4) splitting the action; and 5) a $10,000 Rule 11 sanction – puts Judge Pechman head and shoulders above the other dishonest judges in these cases. There was a sleaziness in the way she approached her oath and in the way she approached pro se litigants. This was addressed in a previous Writ of Mandamus, submitted to this Court. See *In Re John L. Corrigan, 08-1559.* The appellate court just rubber stamped the appeal.

Case #4 – Judge Martinez. Corrigan requested discovery and granted a discovery extension to defendants on their promise to provide the requested discovery within a few days. Defendant then made a motion to dismiss which Judge Martinez granted in spite of Corrigan's pleas for initial discovery. The appellate court incredibly claimed that Corrigan was not entitled to "additional" discovery.

Case #5 – Judge Suko. This was a request for habeas corpus – although by then Corrigan was not incarcerated. Judge Suko had a legitimate basis to dismiss this – even though there were authorities to support Corrigan's request in spite of not being incarcerated.

Case #6 – Judge Pechman. Corrigan filed a complaint against the unknown defendants dismissed from Case #3. Corrigan vehemently disagreed that Judge Pechman was not bias and prejudiced in this case but the Chief Judge of the district court disagreed. Judge Pechman immediately required that Corrigan pay the Rule 11 sanction of $10,000 before she would proceed with the case.

On appeal the appellate court agreed with the district court. There was no legitimate basis for the payment as it was basically the same case as Case #3 and that case was being appealed. This is just another example of the dishonesty of Judge Pechman and not a resounding example of the integrity of the recusal process.

Case #7 & Case #8 – Judge Whaley. This case is a continuation of Case #1. Corrigan researched additional authorities and a law review article supporting his position. Since Case #1 was dismissed "without prejudice" [at least in pertinent parts], Corrigan re-filed portions of that complaint. Judge Whaley dismissed on summary judgment claiming that: 1) Corrigan failed to properly serve the defendants; 2) *res judicata*; and 3) granted Rule 11 sanctions of $10,000.

Corrigan appealed but defendants claimed that this was not a final determination

because there was an obscure counter claim rolling around. The appeal was sent back to the district court – where Judge Whaley tacked on additional monies relating to the counter-claim.

At that time, Corrigan pointed out to Judge Whaley that the case was ***void*** because as the defendants' and he claimed – the defendants were not properly served – and therefore, Judge Whaley had no jurisdiction over the case. Incredibly, Judge Whaley said service could be waived - which was ludicrous because the record showed that defendants did not waive service – they were the ones that complained it was defective.

Case #9 & Case #10 – Judge Shea.

Judge Shea should have recused himself from this case. It was totally improper for him to hear/decide it. This case was originally assigned to Judge Whaley. Judge Whaley recused himself under unusual circumstances,[2] but as Chief Judge he unlawfully assigned the case to Judge Shea.

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[2] Corrigan submitted by mail a motion to recuse Judge Whaley – sending an email of the proposed Order on the Friday the motion was mailed to the court. The court filed it Tuesday but Judge Whaley's Order was filed on the same Friday the email was sent. Further, it is a normal process for judges to work during the weekend and for the court to "file" it on the Friday before the weekend. There are questions about the integrity of Judge Whaley' actions in this matter.

This is a legal error – once he recused himself he did not have the authority to assign the case to a particular judge. Judge Shea in his decision, acknowledged that Corrigan relied on the Rule 11 Advisory Notes as well as other authorities to form the basis of his claims. However, Judge Shea disagreed with Corrigan (and the Rule 11 Advisory Committee) that Rule 11 sanctions could justify a separate cause of action. With rather convoluted justification, Judge Shea sanctioned Corrigan over $10,000 because two defendants were immune – based on judicial/prosecutorial immunity. Somehow he "reasoned" that their immunity extended to abuse of process claims as parties to a lawsuit.

Be that as it may [his order(s) is/are a fabulous read], the Rule 11 motion was filed at the end of the lawsuit (possibly after it was appealed) and after summary judgment was already determined – denying Corrigan a safe-harbor because he could no longer withdraw offensive papers - a position that is understood court-wide to be untimely. So, defendant's Rule 11 motion was frivolous.

Finally, Judge Shea instituted a completely unwarranted filing bar on Corrigan relating to these cases – mostly based on Case #7 and Case #8 that had not even gone through the appellate process. Further attesting to his incredible bias and prejudice.

Case #10 – Judge Coughenour.

Judge Coughenour dismissed this case for lack of service which sued district court and appellate court judges of the 9th Circuit. First, Judge Coughenour should not have accepted this case and/or recused himself from it. Second, the defendants put in a timely appearance but did not waive service. Judge Coughenour used this as a basis for dismissal but Corrigan had good cause for not timely serving. An honest court would have quashed service and allowed Corrigan to re-serve. It is especially galling for federal judges (the district court judge and the judges served as defendants) to be a party to games of service normally reserved for less savory defendants. And, third, Judge Coughenour's other actions (relating to show cause) did not do anything to uphold the integrity of his court or the judicial process.

Case #11 – Judge Robart.

Discussed below. Corrigan is not trying to embarrass judges of the 9th Circuit. He is simply trying to get his cases reviewed by an honest judge – which he believes can only be found outside this circuit.

Conclusion Of "Devil"

Pro se's, no matter how inarticulate or legally deficient their complaints are, deserve better than the 4-9 minutes it takes the "screening panel" to clear it out of their docket. There will not be any (or very few) attorney tailored claims forced down that path. The 9th Circuit is arrogantly and brutally dismissing pro se actions without due process of law. Pro se's are entitled to the same due process that a fair and honest trial/appeal requires and that is provided in the rules. In the 9th Circuit it is obvious that this is not happening.

4. Extortion – Abusive Rule 11 Sanctions

In Case # 1 – Judge Van Sickle entertained a Rule 11 motion and sanctioned Corrigan over $3,000. This was just dishonesty and arrogance on the part of Judge Van Sickle. Defendants' failed to provide a 21-day safe harbor, it was done deliberately, it was frivolous because they did not follow the rule, and it was *prima facie* evidence that defendants' and not Corrigan should have been sanction. Judge Van Sickle knew about the 21-day safe harbor but ignored it. Judge Van Sickle showed bias and prejudice against Corrigan as a pro se. It created a completely unnecessary appeal brought on solely by the judge's bias and the frivolous Rule 11 motion

by defendants. It was simply extortion on the part of Judge Van Sickle. Fortunately, the appellate court reversed the sanction order.

In Case #3 – Judge Pechman entertained a Rule 11 motion and sanctioned Corrigan over $10,000. The defendants' only presented a motion on behalf of one defendant – County of Adams – and one claim – putting the arrest warrant into the county state-wide database. However, Judge Pechman improperly morphed the motion[3] into one against all defendants for all claims without giving Corrigan an opportunity to address all the improperly added claims. Also, defendants' did not properly present the motion because it was not specific enough to allow Corrigan to respond to it. In addition, the underlying claim – abuse of process – was supported by: 1) the fact defendants had no jurisdiction to initiate show cause/arrest process; 2) questions about possible misrepresentations in getting the judge to sign the arrest warrant; and 3) holding the arrest warrant for 4-5 months in a desk drawer and then in a 24-hour period – arresting Corrigan. Finally, Judge Pechman masticated almost every Rule 11 rule in the improper sanctioning of Corrigan. The

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[3] Judge Pechman and the defendants' actions in revising their captions relating to this motion was quite sleazy and reprehensible.

appellate court just rubber stamped the district court. This is extortion because it lacked a foundation under the law and an honest circuit would never allow it to happen.

In Case #7 and Case #8 – Judge Whaley entertained a Rule 11 motion and sanctioned Corrigan over $10,000. First, this is a void judgment. The defendants' claimed and Judge Whaley determined that defendants' were not properly served. In spite of this, Judge Whaley continued on with summary judgment and Rule 11 sanctions. The Rule 11 sanctions were based on violations of claim and issue preclusion. However, those claims were based on Case #1 which was dismissed without prejudice – leaving Corrigan free – in a fair and honest court -- to re-litigate his original claims. Further, there was no showing by defendants (as required established rules) that claim and issue preclusion existed. That is, defendants simply had to mention it and Judge Whaley accepted it as gospel. This is extortion because it lacked a foundation under the law and an honest circuit would never allow it to happen.

In Case #9 and Case #10 – Judge Shea entertained a Rule 11 motion and sanctioned Corrigan over $10,000 against Judge Hille and Prosecutor Scutter based on judicial/prosecutorial immunity from damages. However, this "immunity" was not appropriate. Corrigan was suing Judge Hille and Prosecutor Scutter as parties in a lawsuit for Rule 11 violations. Their immunity does not extend to unlawful actions they do away from the court. They were simply parties – like the other defendants who were not granted Rule 11 sanctions. Defendants' were under no obligation to abuse the process – that was something they chose to do. It had nothing to do with the judicial cloak that immunity gave them as judge/prosecutor.

Finally, the Rule 11 motion entertained by Judge Shea was untimely as there was a final determination under summary judgment. This is extortion because it lacked a foundation under the law and an honest circuit would never allow it to happen.

Extortion Summary

Corrigan was sanctioned over $33,000 without an honest review of the sanctions themselves. The sanctions were made by bias and prejudicial judges in an out of control circuit. So far, there has been no honest review of the merits of the sanctions – yet Corrigan is

faced with a $33,000 fine that is peripheral to legitimate actions taken in a supposedly honest and unbiased circuit. The appellate court just rubber stamped this extortion by the district court judges. Other appellate courts take the matter much more seriously:

> [a] troublesome aspect of a trial court's power to impose sanctions, ether as a result of a finding of contempt, pursuant to the court's inherent power, or under a variety of rules . . . is that the trial court may act as accuser, fact finder and sentencing judge, not subject to restrictions of any procedural code and at times not limited by any rule of law governing the severity of sanctions that may be imposed.
>
> Thus, prior decisions caution that although the decision to impose sanctions is uniquely within the province of a district court, we nevertheless need to ensure that any such decision is made with restraint and discretion.

Schlaifer Nance & Co. v. Estate of Warhol, 194 F.3d 323, 333-34 (2nd Circuit. 1999).

Also, Professor Vario criticizes the 9th Circuit for their poor review of Rule 11 motions:

> During the last several years, however, most Ninth Circuit opinions have

> resulted in an uneven enforcement of the rule. That ambiguity persists today. *Accordingly, Rule 11 practice in the Ninth Circuit remains unpredictable, and the result on appeal is likely to be dictated by the jurisprudential preferences of whoever is sitting on the panel.* [Emphasis added]

Rule 11 Sanctions, Case Law, Perspectives and Preventive Measures, by Georgene M. Vairo, © 2004, American Bar Association, p. 715. There are no other circuit criticisms by Vairo.

5. Miscellaneous

a) Corrigan's Lawsuit.

Corrigan was arrested and convicted of failure to sign a traffic infraction. He spent 5 days in jail and was fined $475 – not because he failed to sign a traffic infraction – but because he put the county through a civil and criminal trial.

Corrigan took his civil rights action up with the federal courts. The defendants' could not just deal with the case on a one-to-one basis. Instead, they abused the process and arrested Corrigan for failing to appear. Defendants' also abused Rule 11 which led to more lawsuits.

It looks like Corrigan is a frivolous, crazed, pro se from down under [not Australia] but he is just responding to violations of his

civil rights perpetrated by the defendants' and the 9th Circuit.

b) Brooks' Lawsuit (App. 10)

Brooks', like Corrigan, refused to sign her traffic citation. She was stunned three times and arrested by 3 Seattle Police Officers. She was 8-months pregnant at the time. Two judges of the 9th Circuit COA determined that the police officers had immunity because it was a lawful arrest. The dissenting opinion was "incredulous." There was no "lawful arrest" for failure to sign a traffic ticket - another illustration of how the 9th Circuit is out of control.

Even though Corrigan was not pregnant or stunned three times - at the time of his arrest – Corrigan's issues are quite similar. But because Brooks' was represented by attorneys, she had a much smoother ride through the courts – although her outcome was similar. She will no doubt get an *en banc* review. It appears that she received a fair trial and more consideration than a pro se would receive at the appellate level – for the same basic action.

c) Challenge of Pro Se Litigation

There is a great deal we do not know about the pro se challenge. Data is desperately needed to appraise the

> nature of the challenge and what sorts of responses will prove effective. We have only just begun to grasp the nature of the pro se challenge. A great deal remains to be learned. Perhaps now is the time to consider a serious commitments to the study of the problem with any eye toward fashioning effective reforms.

L & C Law Review, p. 460.

d) Brutality of 9th Circuit

The 9th Circuit has an unhealthy, unethical, dishonest, oath ignoring, arrogant, outrageous, blatant, bias, and prejudicial animosity towards pro se litigants.

Someday, someone from a law review or a major newspaper, is going to expose the 9th Circuit for what it truly is and what a shaky foundation it rests on. It will be a necessary but it will not be a pretty sight.

Why has the U.S. Supreme Court failed to take appropriate action to clean up this circuit?

II. WHETHER *FEDERAL* JUDGES CAN BE SUED FOR DECLARATORY JUDGEMENT WITHIN THE FEDERAL COURTS IMPROVEMENT ACT OF 1996 (FCIA)

ARGUMENT

1. Judicial Recusal.

Judge Robart should be recused from this case. Judge Robart has a duty to recuse for not just for the reality of bias or prejudice but also for the appearance of bias or prejudice. See Liteky v. U.S., 114 S. Ct. 1147 (1994) (requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned.") *See also* Hagan v. Coggins, 77 F. Supp. 2d 776 (N.D. Tex. 1999) (judges commonly disqualify themselves when a fellow judge in their district is a party to a legal proceeding). Here, there are several judges in this district and the sister district as well as appellate court judges being sued by Corrigan. Judge Robart should not be presiding over this action – nor should any other judges of the 9th Circuit. A visiting judge from outside the circuit should preside over this case to avoid the appearance of bias or prejudice.

2. Second Lawsuit Attempt.

This is the second attempt by Corrigan to litigate this issue. The actions taken by Judges Coughenour and Robart look very much like harassment and intimidation. If there was a "show cause" issue it should have been brought out in the first lawsuit. In the present case it lacks integrity.

3. Bias of Judge Robart.

Judge Robart is limiting himself and showing bias and prejudice by claiming that 9th Circuit law precludes Corrigan's complaint. This was a show cause order. Corrigan showed cause. Claiming that Corrigan could not survive because he presented just cause outside the circuit was preposterous. Just cause is just cause.

4. Corrigan States A Claim.

Corrigan's Complaint Does State A Claim.

> On a motion to dismiss for failure to state a claim upon which relief can be granted, the court must accept the factual allegations in the complaint as true and draw all reasonable inferences in favor of the plaintiff. Moreover, pro se complaints must be read with heightened deference. On a motion to dismiss for lack of subject matter jurisdiction, consideration of matters

> outside the pleadings is permissible. A complaint should not be dismissed for failure to state a claim unless "it appears beyond doubt that the plaintiffs can prove no set of facts in support of his claim which would entitle him to relief." [Citations omitted]

Kampfer v. Scullin, 989 F. Supp. 194, 199 (N.D.N.Y. 1997).

The Eleventh Circuit acknowledged that there is conflicting case law relating to whether federal judges are absolutely immune from injunctive and declaratory relief – using Mullis v. United States Bankr. Court for the Dist. Of Nev., 828 F.2d 1385 (9th Cir. 1987) for both sides of the issue. But they acknowledge in their opposing discussion that "the Supreme Court has previously held that it is inappropriate to create a distinction between state and federal officials for the purposes of immunity as follows" [then quoting from Butz v. Economou, 438 U.S. 478, 500 (1978)]. In addition:

> Thus, this issue is a closer one than it would seem at first blush. After considering both sides of the issue, however, we find the stronger argument favors the grant of absolute immunity to the defendant federal judges in this case.

Bolin v. Story, 225 F.3d 1234, 1242 (11th Cir. 2000).

This determination by Bolin is not critical to Corrigan's claims. Unlike Bolin, Corrigan is ***not*** seeking injunctive relief but only declaratory relief which is allowed under FCIA. As Bolin states in summary:

> Further, even assuming *arguendo* the *Pulliam* decision applies equally in *Bivens* actions against federal judges, that decision has been partially abrogated by statute. Specifically, in 1996, Congress enacted the Federal Courts Improvement Act . . . in which it amended § 1983 to provide that "injunctive relief shall not be granted" in an action brought against "a judicial officer for an act or omission taken in such officer's judicial capacity . . . unless a declaratory decree was violated or declaratory relief was unavailable." At least two district courts have determined that this amendment also limits any injunctive relief available against federal judges. As the court in *Jones* explained, there are two reasons supporting the applicability of this amendment in *Bivens* actions. First, as a general matter federal courts incorporate § 1983 law into

> *Bivens* action. In addition, to the extent that federal judicial officers are not immune from suits for injunctive relief, their liability is based on § 1983 law as set out in *Pulliam*. As a result, even assuming *arguendo* that *Pulliam* does apply to federal judges, the 1996 amendment to § 1983 would limit the relief available to plaintiffs to declaratory relief. [Citations omitted][Emphasis added]

Id., at 1242.

Corrigan is simply seeking declaratory relief – totally within the parameters of the FCIA. See also Kampfer (the doctrine of absolute judicial immunity bars the Kampfers' suit for injunctive relief unless Judge Scullin violated a declaratory decree or declaratory relief was unavailable).

Finally, the Eleventh Circuit's reliance on Mullis is misplaced. Mullis is an anachronism. Plus, Mullis has: 1) a very strong dissenting decision attached to it; 2) the FCIA was not considered; 3) it was a case of first impression; 4) it only had two cases asserting judicial immunity against equitable relief in a *Bivens* action to rely on; and 5) the most important of all, it was very self-serving – but then again, so was the Eleventh Circuit's analysis in Bolin.

III. WHETHER THE 9TH CIRCUIT COA PRE-FILING REVIEW ORDER IS THE RESULT OF A 9th CIRCUIT WITCH HUNT AND/OR A FURTHER EXAMPLE OF THE ABUSE OF PRO SE LITIGANTS BY AN OUT-OF-CONTROL 9TH CIRCUIT.

ARGUMENT

1. Pre-Filling Order Requirements.

The 9th Circuit has established that certain conditions must be met in order for the district court to issue a vexatious litigant order. These conditions are:

a. Notice;
b. Adequate Record for Review;
c. Substantive Findings of Frivolousness; and
d. Breadth of Order.

De Long v. Hennessey, 912 F.2d 1144, 1147-1148 (9th Cir. 1990). These, obviously, should also apply to any pre-filing orders issued by the 9th Circuit.

The 9th Circuit also recognizes that the courts have inherent power to regulate the activities of abusive litigants and that "we also recognize that such pre-filing orders should rarely be filed." De Long, at 1147.

a. Notice.

The 9th Circuit filed this notice on December 22, 2009, and Corrigan was given 14 days of that date to respond to the order. Corrigan sought a stay until after three pending appeals were heard by this Court. That stay was denied on February 3, 2010, and Corrigan was given 21 days from that date to respond. Corrigan submitted a motion for clarification on February 7, 2010. The motion for clarification was denied at the same time the 9th issued their Order.

Because both the motions (stay and clarification) were legitimate motions, Corrigan disputes that fair notice was given by the 9th Circuit. Corrigan should have been given additional time after the motion for clarification was denied to properly respond to the Order.

b. Adequate Record for Review.

> An adequate record for review should include a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed. At the least, the record needs to show, in some manner, that the litigant's activities were numerous or abusive. [Citations omitted]

Id., at 1147. The 9th Circuit has found that Corrigan has submitted 15 appeals over a 15 year period – from 1995 to 2010. Fifteen

appeals over a period of 15 years would hardly justify an "adequate record for review." Three of the appeals were submitted in 1995 and it shows just how dishonest the Order is to include these appeals under this claim. The next two claims were submitted in 2002 and 2004. These are equally inane and lack a foundation – besides which the 2004 appeal was reversed in part showing that there was some substance to it.

There were 5 appeals in 2006 – two of which were *habeas corpus* issues which should not be included as justification – one of which was not even Corrigan's. The one in 2007 was the result of an improperly severed action by Judge Pechman – making two complaints out of the one submitted in 2005. The one in 2008 was returned to the district court as not a final determination based on an obscure counter-claim which took very little effort on the part of the 9th Circuit COA. The three 2009 appeals are pending which should not have been included in the first place. Further, two of the three appeals were combined into one appeal - leaving the three appeals in 2006 to support any "adequate record for review."

Corrigan questions whether this "record of review" would justify such a pre-filing order. For example: In Delong, the 9th Circuit identified Wood, with 35 related complaints filed, Oliver, with 50 frivolous cases filed, and

In Re Green, with over 600 complaints filed. Corrigan's "record of review" seems pretty thin next to those numbers. For a Court which claims "such pre-filing orders should rarely be filed," the 9th Circuit appears anxious to restrict Corrigan's access to the Court with very skimpy/frivolous justification – this is simply a witch hunt by the 9th Circuit.

c. Substantive Findings of Frivolousness.

> Next, we find that before a district court issues a pre-filing injunction against a pro se litigant, it is incumbent on the court to make "substantive findings as to the frivolous or harassing nature of the litigant's actions." . . . To make such a finding, the district court needs to look at "both the number and content of the filings as indicia" of the frivolousness of the litigant's claims. [Citations omitted]

Id., at 1148.

There is no showing in this Order that Corrigan's actions are frivolous. There is no showing that the 9th Circuit looked to "both the number and content of the filings as indicia" of the frivolousness of Corrigan's claims.

Further, the 9th Circuit's claim that Corrigan's claims are frivolous (without more) – is itself frivolous. The 9th Circuit did not make "substantive findings."

d. Breadth of the Order.

The breath of the order is not met because the 9th Circuit has not justified its Order under Delong and due process.

2. Appearance of a Witch Hunt.

Corrigan has been critical of the 9th Circuit in the last year or two. He believes that there is a conspiracy against pro se litigants. Whether that "conspiracy theory" is entirely in Corrigan's mind or is supported by the evidence, remains to be seen – although many of Corrigan's actions are based on perceived bias and prejudice of both the district court judges and appellate court judges of this circuit. But let's just look at that "conspiracy theory" relating to this order.

First, Corrigan respects the 9th Circuit's right to limit abuses of the judicial process. However, Corrigan questions the way the 9th Circuit is going about it in this action. There is no integrity in the way they are approaching it.

Second, Corrigan's appellate actions, frivolous or not, do not rise to the level of a vexatious litigant. The 9th Circuit appears to be using that as an excuse to limit Corrigan's legitimate access to the courts.

Third, Corrigan questions the 9th Circuit's integrity in not mentioning De Long in the Order. Obviously, the 9th Circuit is aware of De Long. It is just as obvious that

they did not feel the need to follow De Long – which questions their bias, prejudice, arrogance, and brutality towards pro se litigants .

Fourth, the 9th Circuit has made no attempt at showing the appellate actions of Corrigan are frivolous. It shows a lack of integrity to make such a far reaching statement and then just let it hang.

Fifth, the 9th Circuit should have granted the stay of the Order. Corrigan's request was not unreasonable. The 9th Circuit's denial of the stay was unreasonable and lacked integrity.

Sixth, and in probably the most egregious lack of integrity, the 9th Circuit is basing this Order partly on three pending appeals (actually two as two appeals were combined into one). The 9th Circuit is basically claiming, without it having been determined by a duly appointed three-party judicial decision, that three appeals are frivolous even before they are determined by the 9th Circuit. This is not "due process."

Seventh, two of the Circuit Judges (Pregerson and Leavy) had previously been served as defendants in Case #11 and as such they should have recused themselves.

Finally, the 9th Circuit, as part of their Order have prohibited Corrigan from appealing this Order in the 9th Circuit. A situation that

would be available to other litigants through reconsideration and/or *En Banc* – these are not the actions of a fair and impartial tribunal.

The 9th Circuit's actions are just a witch hunt. However, the pre-filing order does illustrate how brutally, arrogantly, and dishonestly the 9th Circuit is abusing pro se litigants.

CONCLUSION

For the foregoing reasons, petitioner prays:

1. That a writ of mandamus issue from this Court directed to the Honorable United States District Court for the Western District of Washington, Seattle Division, and to the Honorable James L. Robart, Judge of said Court, requiring said Honorable James L. Robart, to show cause on a day to be fixed by this Court why mandamus should not issue from this Court directing said Honorable James L. Robart, to relieve petitioner of the order of March 10, 2010, granting dismissal of judicial officers with prejudice in *Corrigan v. Marsha J. Pechman*, et. al., No. C10-0001 JLR determined in the Western District of Washington, Seattle Division;
2. That the relieved order of *Corrigan v. Marsha J. Pechman*, et. al. be transferred to a

district court in another circuit for consideration by that circuit's district court;

3. That a writ of mandamus issue from this Court directed to the Honorable United States Ninth Circuit Court of Appeals, and to the Honorable Harry Pregerson, the Honorable Mary Schroeder, and the Honorable Edward Leavy, Circuit Judges of said Court, requiring said Honorable Pegerson, Honorable Schroeder, and Honorable Leavy, to show cause on a day to be fixed by this Court why mandamus should not issue from this Court directing said Honorable Pregerson, Honorable Schroeder, and Honorable Leavy, to relieve petitioner of the order of March 10, 2010, placing a Pre-Filing Review Order *In re: John Louis Corrigan, Sr.*, No. 09-80020 determined in the U.S. Court of Appeals for the Ninth Circuit; and

4. That petitioner have such additional relief and process as may be necessary and appropriate in the premises.

Respectfully submitted,

John L. Corrigan
31912 – 53rd Place South
Auburn, WA 98001-3877
253.735.5025
Petitioner, Pro

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: JOHN L. CORRIGAN, Sr., Respondent.

No. 09-80020
ORDER
[Filed 03/10/2010]

Before: Schroeder, Pregerson, and Leavy, Circuit Judges

On December 22, 2009, this court issued an order directing the respondent to show cause why the following pre-filing review order should not be entered, restricting his future filings in this court. Respondent's motion for clarification of the order to show cause is denied. Upon review of respondent's response to the order to show cause, filed on February 7, 2010, we hereby direct the Clerk to enter the following pre-filing review order. No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

Respondent's failure to comply with the order shall result in any new appeal(s) he seeks to file being dismissed or not being filed and other sanctions being levied against respondent, such as a monetary judgment or a judgment of contempt, as the court may deem appropriate.

Pre-Filing Review Order

(1) This pre-filing review order shall apply to all notices of appeal filed by respondent, in whole or in part, if he proceeds pro se. This order shall not apply to appeals in which respondent has counsel or where the district court has expressly certified in its order that the appeal is not frivolous. Should respondent fail to comply with any of the provisions of this pre-filing review order, the Clerk shall not file

the document and shall return the document to respondent, informing him of the deficiencies and granting him 14 days to correct the deficiency.

(2) Each notice of appeal filed by respondent shall comply with the requirements of the Ninth Circuit Rules and the Federal Rules of Civil and Appellate Procedure, especially Federal Rule of Civil Procedure 54(b) and Federal Rule of Appellate Procedure 4(a), and shall contain the following sentence in capital letters "THIS NOTICE OF APPEAL IS FILED SUBJECT TO PREFILING REVIEW ORDER No. 09-80020" in the body of the notice of appeal.

(3) Each of respondent's future notices of appeal shall include a copy of the order(s) of the district court from which he is appealing, a short and plain statement of the facts or law on which he will rely for the purposes of the appeal, and a statement that he has not previously appealed this order or raised this issue in a prior appeal.

(4) If respondent's future notices of appeal are submitted in compliance with this order, the Clerk shall lodge the notice of appeal and accompanying documents. The Clerk shall not file the appeal or establish a presumptive schedule for the certificate of record, briefing, or transcripts except upon further order of the court. The court will review respondent's submissions and determine whether they merit further review and whether they should be filed.

(5) This pre-filing review order shall remain in effect until further order of this court. Respondent may, no earlier than March 31, 2012, petition the court to lift this pre-filing review order, setting forth the reasons why the order should be lifted.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

John L. Corrigan,
Plaintiff

v.

Marsha J. Pechman,
et. al.
Defendants.

Case No. C10-0001JLR

ORDER

On January 15, 2010, the court directed Plaintiff John L. Corrigan to show cause why this case should not be dismissed for failure to state a claim upon which relief can be granted. (*See* Dkt. # 3.) Specifically, upon reviewing Mr. Corrigan's original complaint, the court directed Mr. Corrigan to address the issue of absolute judicial immunity regarding actions taken by judicial officers in their judicial capacity. Having considered Mr. Corrigan's response, as well as his original complaint, his amended complaint, and the balance of the record, the court DISMISSES this action with prejudice.

Mr. Corrigan brings suit against 15 federal judges for "actions taken in their judicial capacity." (Am. Compl. (Dkt. # 4) ¶¶ 6-8.) Mr. Corrigan asserts that he was denied due process of law in connection with previous lawsuits in which these judges presided in their judicial capacity. (*Id.* ¶¶ 9-16.) Mr. Corrigan does not request either damages or injunctive relief, but rather seeks declaratory relief. (*Id.* at p. 9 & ¶¶ 3-4.)

The doctrine of judicial immunity provides that judges are entitled to absolute immunity for acts performed in their judicial capacities. *Mireles v. Waco*, 502 U.S. 9, 11-12 (1991). Immunity is overcome only in two circumstances: "First, a judge is not immune from liability for nonjudicial actions, *i.e.*, actions not taken in the judge's judicial capacity. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction." *Id.* (citations omitted). Neither exception is implicated in this action. "The judicial or quasi-judicial immunity available to federal officers is not limited to immunity from damages, but extends to actions for declaratory, injunctive and other equitable relief." *Mullis v. U.S. Bankr. Court for the Dist. of Nev.*, 828 F.2d 1385, 1394 (9th Cir. 1987).

Here, Mr. Corrigan seeks declaratory relief against judicial officers for actions taken in their judicial capacity. This type of relief is squarely foreclosed by the doctrine of judicial immunity. In his response, Mr. Corrigan makes no showing that his claims may go forward under governing law in the Ninth Circuit. Although Mr. Corrigan characterizes the partial dissent in *Mullis* as "debunking" the majority opinion, this does not alter the controlling effect of the majority's decision. Likewise, Mr. Corrigan cites case law from outside the Ninth Circuit to support his argument that he has stated claims upon which relief may be granted. In the face of Ninth Circuit case law on point, however, these out-of-circuit decisions do not provide guidance for this court.

The court concludes that Mr. Corrigan's amended complaint must be dismissed for failure to state a claim upon which relief can be granted. *See Mullis*, 828 F.2d at 1394; *Ferguson v. U.S. Dist. Court*, No. CV-09-70-BLG-RFC, 2009 WL 2423440, at *1-2 (D. Mont. Aug. 3, 2009); *White v. Snyder*, No. 1:08-cv-01114-AWI DLB PC, 2008 WL 3541739, at *2 (E.D. Cal. Aug. 13, 2008). Mr. Corrigan's claims are barred by the doctrine of judicial immunity. Because further amendment of the amended complaint will not alter the legal bar to relief or otherwise save the amended complaint, the court dismisses this action without leave to amend. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 701 (9th Cir. 1990).

Dated this 10th day of March, 2010.

JAMES L. ROBART
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: JOHN L. CORRIGAN, Sr., Respondent.	No. 09-80020 ORDER [Filed 12/22/2009]

Before: Peter L. Shaw, Appellate Commissioner.

This court's records reflect that, since 1995, respondent John Louis Corrigan, Sr. has initiated the following litigation in this court:

95-35140 - affirmed without argument;
95-35141 - affirmed without argument;
95-36045 - affirmed without argument;
02-55187 - affirmed without argument;
04-36002 - affirmed in pt. and reversed in pt.;
06-35129 - affirmed without argument;
06-35574 - certificate of appealability denied;
06-35738 - affirmed without argument;
06-35998 - affirmed without argument;
06-55478 - certificate of appealability denied;
07-35584 - affirmed without argument;
08-35550 - dismissed for lack of jurisdiction;
09-35482 - pending;
09-35576 - pending; and
09-35730 - pending.

Respondent's practice of burdening this court with meritless litigation justifies careful oversight of respondent's future litigation in this court.

The Supreme Court has recognized that "every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the [c]ourt's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of the [appellants'] frivolous requests . . . does not promote that end." *In re McDonald*, 489 U.S. 180, 184 (1989). This court faces the same problems of limited resources in handling its large volume of appellate litigation.

Therefore, the respondent, John Louis Corrigan, Sr. shall respond and show cause within 14 days of the date of this order why this court should not enter the following pre-filing review order. *See Visser v. California*, 919 F.2d 113, 114 (9thCir. 1990) ("This court has the inherent power to restrict a litigant's ability to commence abusive litigation"); *see also Wolfe v. George*, 486 F.3d 1120 (9th Cir.2007) (finding no constitutional right to file frivolous litigation, upholding California vexatious litigant statute). If respondent fails to file a timely response to this order, the Clerk shall forthwith enter the pre-filing review order regardless of further filings by respondent.

Should the pre-filing review order be entered, respondent's failure to comply with the order shall result in any new appeal(s) he seeks to file being dismissed or not being filed and other sanctions being levied against respondent, such as a monetary judgment or a judgment of contempt, as the court may deem appropriate.

Pre-Filing Review Order

(1) This pre-filing review order shall apply to all notices of appeal filed by respondent, in whole or in part, if he proceeds pro se. This order shall not apply to appeals in which respondent has counsel or where the district court has expressly certified in its order that the appeal is not frivolous. Should respondent fail to comply with any of the provisions of this pre-filing review order, the Clerk shall not file the document and shall return the document to respondent, informing him of the deficiencies and granting him 14 days to correct the deficiency.

(2) Each notice of appeal filed by respondent shall comply with the requirements of the Ninth Circuit Rules and the Federal Rules of Civil and Appellate Procedure, especially Federal Rule of Civil Procedure 54(b) and Federal Rule of Appellate Procedure 4(a), and shall contain the following sentence in capital letters "THIS NOTICE OF APPEAL IS FILED SUBJECT TO PREFILING REVIEW ORDER No. 09-80020" in the body of the notice of appeal.

(3) Each of respondent's future notices of appeal shall include a copy of the order(s) of the district court from which he is appealing, a short and plain statement of the facts or law on which he will rely for the purposes of the appeal, and a statement that he has not previously appealed this order or raised this issue in a prior appeal.

(4) If respondent's future notices of appeal are submitted in compliance with this order, the Clerk shall lodge the notice of appeal and accompanying documents. The Clerk shall not file the appeal or establish a presumptive schedule for the certificate of record, briefing, or transcripts except upon further

order of the court. The court will review respondent's submissions and determine whether they merit further review and whether they should be filed.

(5) This pre-filing review order shall remain in effect until further order of this court. Respondent may, no earlier than March 31, 2012, petition the court to lift this pre-filing review order, setting forth the reasons why the order should be lifted.

By GENE JOHNSON
The Associated Press
Friday, March 26, 2010; 6:14 PM

SEATTLE -- Three Seattle police officers were justified when they used a stun gun on a pregnant mother who refused to sign a traffic ticket, a federal appeals court ruled Friday in a case that prompted an incredulous dissent.

Malaika Brooks was driving her son to Seattle's African American Academy in 2004 when she was stopped for doing 32 mph in a school zone. She insisted it was the car in front of her that was speeding, and refused to sign the ticket because she thought she'd be admitting guilt.

Rather than give her the ticket and let her go on her way, the officers decided to arrest her. One reached in, turned off her car and dropped the keys on the floor. Brooks stiffened her arms against the steering wheel and told the officers she was pregnant, but refused to get out, even after they threatened to stun her.

The officers - Sgt. Steven Daman, Officer Juan Ornelas and Officer Donald Jones - then stunned her three times, in the thigh, shoulder and neck, and hauled her out of the car, laying her face-down in the street.

LIST OF CASES FROM 2003

#	C	v. Name	Case #	Jdg	App. #
1	2	Dale	03-00247	FVS	04-36002
2	1	VISA	05-01622	RSM	06-35129
3	1	KC Deputy	05-01727	MJP	06-35998
4	1	Kline	05-01728	RSM	06-35738
5	2	Cty Adams	06-00034	LRS	06-35574
6	1	Jenks	06 01710	MJP	07-35584
7	2	Dale	07-00227	RHW	08-35550
8	2	Dale	07-00227	RHW	09-35576
9	2	Pflanz	08-00333	EFS	09-35482
10	2	Pflanz	08-00333	EFS	09-35730
11	1	Pechman	09-00016	JCC	
12	1	Pechman	10-00001	JLR	

C = US District Court; 1) Western district at Seattle; or 2) Eastern District at Spokane.

Jdg = Judge
FVS – Fred Van Sickle; RSM – Ricardo s. Martinez
MJP – Marsha J. Pechman; LRS – Lonny R. Suko
RHW – Robert H. Whaley; EFS – Edward F. Shea
JCC – John C. Coughenour; JLR – James L. Robart

NOTE: Appeal # 06-55478 was not included on the list because it was not one of Corrigan's.

Court of Appeals Docket #: 06-35738
Excerpt

11/13/2006	6	Filed original and 15 copies appellees' Myrone Kline, Anne E. Kirpatrick, City of Federal Way's 32 pages brief, 1 vol. of Supp EOR; served on 11/9/06 [06-35738] (RT)
12/20/2006	9	Calendar check performed [06-35738] (TH)
05/16/2007	10	SUBMITTED TO SCREENING PANEL 453. (Oral) [06-35738] [06-35738] (TH)
05/23/2007	11	FILED MEMORANDUM: AFFIRMED (Terminated on the Merits after Submission Without Oral Hearing; Affirmed; Written, Unsigned, Unpublished. Harry PREGERSON, Stephen R. REINHARDT, A. W. TASHIMA) FILED AND ENTERED JUDGMENT. [06-35738] (RT)
06/15/2007	13	MANDATE ISSUED [06-35738] (RT)

LIST OF CASES SUBMITTED TO SCREENING PANEL

#	App. #	Submit	Judg-ment	# of Days
-	95-35140	02/07/96	02/12/96	5
-	95-35141	12/19/95	12/29/95	10
-	95-36045	06/11/95	06/19/95	8
-	02-55187	07/22/02	07/31/02	9
1	04-36002	01/09/06	01/13/06	4
2	06-35129	08/27/07	08/31/07	4
3	06-35998	07/09/07	07/23/07	13
4	06-35738	05/16/07	05/23/07	7
5	06-35574	*1		
6	07-35584	*2		
7	08-35550	*3		
8	09-35576	Pending		
9	09-35482	*4		
10	09-35730	*4		

*1	Different – habeas corpus issue
*2	No indication this was submitted to screening panel but some docket entries are missing around that period
*3	Defendants alleged that a counter-claim was not finalized and it was returned to district court [re-filed under 09-35576]
*4	These were combined even though Corrigan had to file the appeals separately - Pending